

48A C.J.S. Judges § 117

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

V. Discipline, Suspension, or Removal

C. Grounds

§ 117. Willful misconduct relating to official duty—Prejudicial conduct bringing office into disrepute

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  11(4)

A ground for discipline of a judge may arise from conduct which is prejudicial to the administration of justice which brings the judicial office into disrepute.

A ground for discipline of a judge may arise from conduct which is prejudicial to the administration of justice which brings the judicial office into disrepute.¹ This ground relates to unjudicial conduct contrary to ethical canons committed in a judicial capacity but without bad faith² or willful misconduct committed in bad faith but not in a judicial capacity,³ with the effect of lowering public esteem for the particular judicial office and thus tending to lower the public esteem for the entire judiciary so as to reduce its effectiveness.⁴ Thus, for purposes of determining whether actions of a judge are willful misconduct or conduct prejudicial to the administration of justice, actions can be considered less serious conduct prejudicial to the administration of justice only if judicial acts are undertaken in good faith.⁵ "Conduct prejudicial to the administration of justice," as a factor in determining whether a judge is to be subject to discipline, is conduct that a judge undertakes in good faith but nevertheless would appear to an objective observer to be not only unjudicial conduct but conduct prejudicial to the public esteem for the judicial office or willful misconduct out of office, that is, unjudicial conduct committed in bad faith by a judge not then acting in a judicial capacity.⁶

Willful misconduct in office is, of necessity, conduct prejudicial to the administration of justice that brings the judicial office into disrepute,⁷ but a judge may also, through negligence or ignorance not amounting to bad faith, behave in a manner constituting such ground for discipline,⁸ or the judge may commit indiscretions or worse acts in his or her private life bringing the judicial office into disrepute.⁹ Any disposition of a case by a judge for reasons other than an honest appraisal of the facts and the law will amount to such conduct¹⁰ even though the judge does not receive any personal benefit, financial or otherwise, therefrom.¹¹

CUMULATIVE SUPPLEMENT

Cases:

Judge committed willful misconduct in office and conduct prejudicial to administration of justice when he threatened to use gun on defendant and made disparaging remarks to defendant's mother, demeaned her parenting skills, and made other demeaning comments and accusations. Miss. Code of Jud. Conduct, Canons 1, 2(A), 3(B)(4), 3(B)(5). [Mississippi Commission on Judicial Performance v. Vess](#), 227 So. 3d 952 (Miss. 2017).

Refusal by municipal judge and part-time circuit court magistrate to perform same-sex marriages violated judiciary rule stating that judge shall perform duties of judicial office without bias or prejudice or manifest bias or prejudice; judge expressed her opinion that, in her performance of her judicial function, law would have to yield to her religious beliefs and, thus, she would perform her judicial functions as magistrate for one class of people but not another, and refusal to conduct marriages on basis of couple's sexual orientation could reasonably be perceived as biased. [Wyo. Code of Jud. Conduct, Rule 2.3. In re Neely](#), 2017 WY 25, 390 P.3d 728 (Wyo. 2017).

[END OF SUPPLEMENT]

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Footnotes

- 1
 - Ind.—[In re Young](#), 943 N.E.2d 1276 (Ind. 2011).
 - Iowa—[In re Block](#), 816 N.W.2d 362 (Iowa 2012).
 - Miss.—[Mississippi Com'n on Judicial Performance v. Cowart](#), 71 So. 3d 590 (Miss. 2011).
 - N.C.—[In re Totten](#), 365 N.C. 458, 722 S.E.2d 783 (2012).
 - S.C.—[In re Hall](#), 381 S.C. 378, 673 S.E.2d 429 (2009).
 - S.D.—[In re Fuller](#), 2011 SD 22, 798 N.W.2d 408 (S.D. 2011).
 - Lying under oath**
 - Mich.—[In re James](#), 492 Mich. 553, 821 N.W.2d 144 (2012).
- 2
 - Ky.—[Gormley v. Judicial Conduct Commission](#), 332 S.W.3d 717 (Ky. 2010).
 - Utah—[In re Worthen](#), 926 P.2d 853 (Utah 1996).
- 3
 - Miss.—[Mississippi Com'n on Judicial Performance v. Osborne](#), 11 So. 3d 107 (Miss. 2009).
 - Utah—[In re Worthen](#), 926 P.2d 853 (Utah 1996).
 - Harassment of court employee**
 - Ind.—[Matter of McClain](#), 662 N.E.2d 935 (Ind. 1996).
- 4
 - Miss.—[Mississippi Com'n on Judicial Performance v. Osborne](#), 11 So. 3d 107 (Miss. 2009).
 - Utah—[In re Worthen](#), 926 P.2d 853 (Utah 1996).

- 5 Ariz.—*In re Jett*, 180 Ariz. 103, 882 P.2d 414 (1994).
- 6 Cal.—*Doan v. Commission on Judicial Performance*, 11 Cal. 4th 294, 11 Cal. 4th 474a, 45 Cal. Rptr. 2d 254, 902 P.2d 272 (1995), as modified, (Nov. 6, 1995).
- 7 Miss.—*Mississippi Com'n on Judicial Performance v. Hartzog*, 32 So. 3d 1188 (Miss. 2010).
- N.C.—*In re Hartsfield*, 365 N.C. 418, 722 S.E.2d 496 (2012).
- 8 La.—*In re Williams*, 85 So. 3d 5 (La. 2012).
- Miss.—*Mississippi Com'n on Judicial Performance v. Smith*, 109 So. 3d 95 (Miss. 2013).
- N.C.—*In re Nowell*, 293 N.C. 235, 237 S.E.2d 246 (1977).
- 9 N.C.—*In re Nowell*, 293 N.C. 235, 237 S.E.2d 246 (1977).
- Tex.—*Matter of Carrillo*, 542 S.W.2d 105 (Tex. 1976).
- 10 Miss.—*Mississippi Com'n on Judicial Performance v. Thompson*, 80 So. 3d 86 (Miss. 2012).
- N.C.—*In re Peoples*, 296 N.C. 109, 250 S.E.2d 890 (1978).
- 11 N.C.—*In re Peoples*, 296 N.C. 109, 250 S.E.2d 890 (1978).

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